

Chesapeake Bay Exception CBE-10-066: 1270 Two Rivers Point

Staff report for the April 14, 2010, Chesapeake Bay Board Public Hearing.

This staff report is prepared by the James City County Environmental Division to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Mr. David Pulk

Land Owner: David K. & Carol S. Pulk

Location: 1270 Two Rivers Point, Williamsburg, Virginia 23185

Parcel: Lot 8, Two River's Point, The Governor's Land at Two Rivers

Parcel Identification 4310500008

Lot Size: 0.62 acres

RPA Area on Lot 0.25 acres or 41% of the lot

Watershed James River (HUC Code JL29)

Proposed Activity: Installation of a walk-out raised terrace with support wall and in-ground swimming pool

Proposed Impacts

Impervious Area: 685 square feet

RPA Encroachment Landward 50 foot RPA Buffer

Brief Description and Summary

Ms. Toni Small of Williamsburg Environmental Group on behalf of David and Carol Pulk, of 208 Brentwood Drive, Hudson, Ohio has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer, for the construction of a walkout raised terrace approximately 685 square feet in size. The terrace is inclusive with approximately 55 ft. length of support wall and an in-ground swimming pool approximately 20 ft. x 12 ft in size. Only a portion of the west part of the proposed swimming pool is situated within the landward RPA buffer. The terrace and inclusive structures will create 685 square feet of impervious area within the landward RPA Buffer.

A detailed RPA Mitigation Planting Plan (Plan) has been provided along with the exception request for your review. The plan proposes to mitigate for the RPA impacts by planting six (6) native canopy trees, fifteen (15) native understory trees and twenty-seven (27) native shrubs.

The amount of plantings proposed exceeds the standard mitigation planting requirements of the County for impervious impacts. In addition, the applicant has offered additional mitigation by installing a 25 ft. long infiltration area in the northeast corner of the parcel to help intercept and treat runoff from impervious areas along the east side of the proposed house and the entire terrace area.

Background

The lot was recorded after the adoption of the Chesapeake Bay Ordinance in 1990. Bay Act requirements resulted in approval of the plat for the subdivision with a 100-foot RPA buffer around all water bodies with perennial flow. The James River was identified as a perennial water body feature and an RPA buffer was placed on the lot. There are some unique provisions to the approved plat which will be explained at the staff presentation.

According to provisions of Section 23-7(c)(2) the County's Chesapeake Bay Preservation ordinance, the manager may grant administrative approval for the construction of a principal structure on a lot or parcel recorded between August 6, 1990 and January 1, 2004. The administrative case - for construction of the principal structure and associated impact to RPA - was submitted concurrently (CBE-10-065) with the case scheduled before the board (CBE-10-066).

The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of a walkout raised terrace, associated support wall, and that portion of in-ground swimming pool within the RPA buffer. Impacts are on the landward side of the RPA buffer. This request does not qualify for an administrative waiver because it is for an accessory structure. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a WQIA for this project which consists of a cover letter dated March 3rd 2010, the standard County *Sensitive Area Activity Application*, a supplemental narrative attachment, and a WQIA map. The WQIA map shows features of the proposal along with a mitigation plan for planting six (6) native canopy trees, fifteen (15) native understory trees and twenty-seven (27) native shrubs. The amount of plantings proposed exceeds the standard mitigation planting requirements of the County for impervious impacts. The mitigation plan includes plantings for both the board and administrative review cases (pending). In addition, the applicant has offered additional mitigation by installing a 25 ft. long infiltration area in the northeast corner of the parcel to help intercept and treat runoff from impervious areas along the east side of the proposed house and the entire terrace area.

The cover letter dated March 3rd 2010 gives very specific information about the applicant's request, environmental features of the site development, and reconfiguration of the house footprint to avoid and minimize impact to the RPA.

Staff Recommendations

The issue before the Board is the addition of 685 square feet of impervious area within the landward RPA buffer. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14(c) of the Ordinance. There are five (5) review criteria within this section of the ordinance.

Staff evaluated the potential adverse impacts of this proposal and determined them to be moderate. Those impacts may be offset by the proposed mitigation plan.

If the Board favors the resolution to grant approval, then staff recommends the incorporation of the following conditions into the approval:

1. The applicant must obtain all other applicable federal, state and local permits required for the project, including a building permit from James City County Codes Compliance.
2. An acceptable detailed plan for proposed yard drains and the proposed infiltration area, as situated in the northeast corner of the lot, must be submitted to the County for review and approval prior to their construction.
3. The size of the trees planted shall be a minimum of 1-1/2 inch caliper (six to eight feet tall) and the shrubs shall be 3 gallon size. All vegetation shall be native species approved by the Environmental Division.
4. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3)(d) and 23-17(c), which is providing a form of surety satisfactory to the County Attorney.
5. This exception request approval shall become null and void if construction has not begun by April 14, 2011 or all improvements including the required mitigation plantings, including the infiltration area, are not completed by that expiration date.
6. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

Staff Report prepared by:

Scott J. Thomas
Secretary to the Board

Attachments